IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

CRP.No. 719 of 2007()

AGAINST THE ORDER DATED 04/01/2007 IN IA.2778/2004 IN OS.274/2004 of ADDL.SUB COURT,PARAVUR

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REVN. PETITIONER: STRANGER & CLAIMANT

SUBAIR, S/O. KUNJU MOHAMMED MUSALIYAR,
KARUTHEDATH HOUSE, CHOWARA VILLAGE,
SREEMOOLANAGARAM KARA, ALUVA, ERNAKULAM DIST.,
REP. BY ITS P/A HOLDER M.K.KUNJIBAPPU, S/O.
KUNJIMUHAMMED, MAMMANAYATHUKUDI HOUSE, KANJOOR
KARA, ALUVA TALUK, ERNAKULAM DISTRICT.

BY ADV. SRI.H.BADARUDDIN
SRI.M.A.SHIHAB

RESPONDENTS: DEFENDANTS

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1. K.M.ABUBACKER, S/O. MOHAMMED,
SHARAN WEST, VAZHAKKALA, KAKKANAD, NOW
RESIDING AT ARUVIKAL HOUSE, VKV LANE,
CHEMBUMUKKU.

2. MUHAMMED PADIYATH, S/O. ABDULLA,
SHALIMAR GARDEN, VAZHAKKALA, KOCHI.

3. A.M.VEERANPULLA, S/O. LATE MAYANKUTTY,
ANJIKATTU HOUSE, CHOWARA VILLAGE,
ALUVA TALUK.

4. A.V. ABDUL RASHEED, S/O. VEERAMPULLA, ANJIKKATU HOUSE
CHOWARA VILLAGE, ALUVA TALUK

5. K.A. SUBAIDA, W/O. VEERANPULLA, ANJUKATTU HOUSE
CHOWARA VILLAGE, ALUVA TALUK

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.No. 719 OF 2007 B

Dated this the 16th August, 2007.

O R D E R

This revision petition is preferred against an order made under Order XXXVIII Rule 8 C.P.C. When an application under Order XXXVIII Rule 8 is filed it has to be decided as per the procedure laid down under Order XXI Rule 58 CPC. Order XXI Rule 58 makes it clear that the question of title has to be gone into if it arises and it will have all the trappings of a decree. So the said order passed will become an appealable decree and the court which is competent to entertain the appeal will be able to entertain it. C.R.P is not maintainable. Therefore C.R.P is permitted to be withdrawn with liberty to the revision petitioner to file the appeal in the appropriate forum. Di

M.N.KRISHNAN
Judge

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